

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

OP.No. 19939 of 1999(W)

PETITIONER:

THE MANAGING DIRECTOR, NARNIAT PHARMACEUTICALS
& CHEMICALS PRIVATE LIMITED, P.O. NORTH BEYPORE,
CALICUT - 673 105.

BY ADV. SRI.P.RADHAKRISHNAN (1)

RESPONDENT:

THE SECRETARY, KOZHIKODE VANIJYA VYAVASAYA
MAZDOOR SANGH, VELLODY BUILDINGS, KALLAI ROAD,
KOZHIKODE.

BY ADV. SRI.SUNNY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF LETTER ISSUED BY THE EMPLOYEE TO THE COMPANY.

EXT.P2 MEMO DT. 6-11-1989.

EXT.P3 LETTER DT. 8-10-1990.

EXT.P4 LETTER DT.19-8-1991.

EXT.P5 AWARD IN I.D.NO.119/92 DT. 23-5-1998.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 19939 of 1999

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Dated this, the 19th January, 2007.

J U D G M E N T

Management in I.D. No. 119/92 before the Labour Court, Kozhikode is the petitioner herein. The challenge in this original petition is against Ext. P5 award passed by the Labour Court in that I.D.

2. The issue referred for adjudication was regarding the justifiability of denial of employment to a workman by name P.P. Soman. The Labour Court, on the basis of the evidence adduced before it by both sides, came to the conclusion that the management, in fact, denied employment to the workman which was illegal and unjustified. However, the Labour Court restricted the relief to compensation of Rs. 30,000/- in lieu of reinstatement. The said finding is under challenge in this original petition.

3. I have gone through Ext. P5 award. I find that the Labour Court has minutely gone into the evidence before it and by no stretch of imagination, I could find that the findings in Ext. 5 award are in any way perverse. The Labour Court found first that the contention of the management that the workman was retrenched on account of the surplus staff could not be proved by the management by sufficient evidence. Thereafter, the Labour Court found that the other contention of the management that the workman voluntarily abandoned work also could not be proved by sufficient evidence by the management. The contention of acute financial difficulties necessitating retrenchment was also found against the management. Paragraph 3 of the award contains the gist of the written statement filed by the management. In the same, I find that the management has taken an inconsistent stand. The workman has been issued a notice for retrenchment from service. Then the management contended that the workman absented himself from duty without prior

notice and without filing leave application from June 1990 onwards and therefore since the said act of the workman constituted serious misconduct, he was terminated from service by notice dated 19-8-1991. Thus, the management had never any consistent case even before the Labour Court. In any event, I do not find any perversity whatsoever in the findings in Ext. P5 award wherein the Labour Court has found that the workman was illegally and unjustifiably denied employment.

In view of the said finding, I do not find any merit in the original petition and accordingly the same is dismissed.

Sd/- S. Siri Jagan, Judge.

Tds/